

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

MICHAEL A. MARTINDALE,

Plaintiff,

vs.

PAUL REES, M.D.,

Defendant.

CV 18-95-H-BMM-JTJ

ORDER

Plaintiff Michale Martindale is a state prisoner proceeding without counsel. Martindale filed a Complaint alleging Dr. Rees denied him adequate medical care in violation of the Eighth Amendment. (Doc. 2.) Martindale also filed a Motion for Temporary Restraining Order and Preliminary Injunction. (Docs. 2-3, 2-5.) Dr. Rees has filed an Answer and response to the Motion for Temporary Restraining Order and Preliminary Injunction. (Doc. 11.)

Magistrate Judge John Johnston entered his Findings and Recommendations in this matter on January 9, 2019. (Doc. 12.) Judge Johnston determined that Martindale has failed to establish a likelihood of success on the merits of his Eighth Amendment claim and failed to meet the requirements for preliminary injunctive relief pending disposition of his claims. *Id.* at 7. Neither party filed objections.

Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). The Court finds no error in Judge Johnston’s Findings and Recommendations.

**IT IS ORDERED** that Judge Johnston’s Findings and Recommendations (Doc. 12) are **ADOPTED IN FULL**.

**IT IS FURTHER ORDERED** that Plaintiff Michael Martindale’s Motion for Temporary Restraining Order and Preliminary Injunction (Docs. 2-3, 2-5) are **DENIED**.

DATED this 27th day of February, 2019.



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Brian Morris  
United States District Court Judge